

STATE OF HAWAII — DEPARTMENT OF TAXATION
**APPLICATION FOR TENTATIVE REFUND FROM CARRYBACK
OF NET OPERATING LOSS**

**Do Not Attach to Your Income Tax Return — File Separately to Expedite Processing
For use by individuals, estates, or trusts.**

CAUTION: Nonresidents and part-year residents (Form N-15 filers) cannot file this form. See Instructions.

Please Type or Print	Name(s)	Federal Employer I.D. No. if any		
	Number and Street	Your social security number		
	City or town, State and ZIP code	Spouse's social security number		
1	Return for year of net operating loss.	(a) Tax year ended	(b) Date filed	(c) District Office where filed

2 Amount of net operating loss (from page 2, line 10) \$ _____

CAUTION: Only the portion of a net operating loss for a tax year that's an "eligible loss" may be carried back to the 3rd preceding tax year. See Instructions.

3 (a) Preceding tax year(s) affected by carryback	(b) Did spouse file a separate return?	(c) District Office where return(s) filed
3rd	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2nd	<input type="checkbox"/> Yes <input type="checkbox"/> No	
1st	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4 If you changed your accounting period, give date permission to change was granted _____		
5 Have you filed a petition in the Tax Appeal Court for the year or years to which the loss is to be applied? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Computation Decrease in Tax	3rd preceding tax year ended		2nd preceding tax year ended		1st preceding tax year ended	
	(a) Before carryback	(b) After carryback	(c) Before carryback	(d) After carryback	(e) Before carryback	(f) After carryback
6 Adjusted gross income as last determined						
7 Net operating loss deduction resulting from carryback (attach computation)						
8 Line 6 minus line 7						
9 Deductions (see Instructions)						
10 Line 8 minus line 9						
11 Exemptions						
12 Taxable income (line 10 minus line 11)						
13 Income tax						
14 Non-refundable tax credits (list): _____ _____ _____ _____						
Total non-refundable credits						
15 Line 13 minus line 14, but not less than zero						
16 Total refundable tax credits						
17 Total tax liability (line 15 minus line 16)						
18 Enter amount from line 17 { column (b) column (d) column (f)						
19 Decrease in tax, line 17 minus line 18						

ATTACH COPIES OF FEDERAL FORM 1040 (See Instructions.)

Declaration

I declare, under the penalties set forth in section 231-36, HRS, that I have examined this application, including any accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

(Your signature and date)

(If application is filed jointly by husband and wife both must sign)

(Spouse's signature and date)

Schedule A (Form N-109)—Computation of Net Operating Loss

1	Adjusted gross income from Form N-11, N-12, or N-15 (Form N-15 filers, see Instructions) (estates and trusts, skip lines 1 and 2)				1		
2	Deductions (applies to individuals only):						
a	Enter the amount of your total itemized deductions OR standard deduction from Form N-11, N-12, or N-15 (Form N-15 filers, see Instructions)	2a					
b	Exemptions (see Instructions)	2b					
c	Add lines 2a and 2b (estates and trusts, enter zero)				2c	()
3	Combine lines 1 and 2c (estates and trusts, enter your taxable income)				3		
Note: If line 3 is zero or more, do not complete rest of schedule. You do not have a net operating loss.							
Adjustments:							
4	Exemptions from line 2b above (estates and trusts, enter exemption from your tax return)			4			
5 a	Enter the excess of your nonbusiness capital losses over your nonbusiness capital gains	5a					
b	Enter the excess of your business capital losses over your business capital gains plus nonbusiness capital gains not used in figuring line 8c	5b					
c	Enter total of lines 5a and 5b but not more than your capital loss limitation			5c			
6 a	Enter the amount of interest income from Hawaii or any of the Hawaii counties' obligations	6a					
b	Enter the amount of interest expense related to income not taxable by Hawaii	6b					
c	Line 6a minus line 6b			6c			
7	Net operating loss deduction from other years			7			
8 a	Nonbusiness deductions	8a					
b	Nonbusiness income plus the excess of your nonbusiness capital gains over your nonbusiness capital losses	8b					
c	Line 8a minus line 8b. If 8b is more than 8a, enter zero			8c			
9	Add lines 4, 5c, 6c, 7 and 8c				9		
10	Combine lines 3 and 9. This is your net operating loss. Enter here and on page 1, line 2. (Form N-15 filers, do not enter on page 1, line 2. You must file an amended return on Form N-15 to carry back your net operating loss.)				10		
Caution: If the amount to be entered on line 10 is zero or more, you do not have a net operating loss.							

Instructions for Schedule A (Form N-109) — Computation of Net Operating Loss

Use this schedule to figure your net operating loss (NOL) that is available for carryback or carryforward.

Note: If you are a nonresident or part-year resident (Form N-15 filer), you cannot file Form N-109. However, you may use this schedule to figure your NOL that is available for carryback or carryforward. You will need to figure two NOL amounts: (1) Your Total NOL (for Form N-15, Column A), and (2) Your Hawaii NOL (for Form N-15, Column B). Therefore, you should complete the above schedule twice. First, complete the schedule using amounts from Column A of your Form N-15. Next, complete the schedule using amounts from Column B of your Form N-15.

Line 1.—Individuals, enter your adjusted gross income.

Form N-15 filers: When computing your Total NOL, enter your Total adjusted gross income from Form N-15, line 33, Column A. When computing your Hawaii NOL, enter your Hawaii adjusted gross income from Form N-15, line 33, Column B.

Line 2a.—Individuals, enter your itemized deductions or standard deduction.

Form N-15 filers who itemized deductions: When computing your Total NOL, enter your total itemized deductions calculated as if you were a full-year resident. When computing your Hawaii NOL, enter your Hawaii itemized deductions from Form N-15, line 36g.

Line 2b.—Enter the amount of your personal exemptions from Form N-11, N-12, or N-15.

Line 5.—If your business capital gains plus your nonbusiness capital gains not used in figuring line 8c exceed your business capital losses, enter zero on line 5b. If you have a net capital loss for the year, do not include in line 5c, your net capital loss not allowed this year because of the capital loss limitation. For more information, see federal regulations section 1.172-3.

Line 8a and b.—Nonbusiness income and deductions are those not connected with a trade or business.

Your standard deduction is a nonbusiness deduction.

Itemized deductions, if elected, are usually nonbusiness, except for state income taxes related to a trade or business, casualty loss deductions, and any employee business expenses such as union dues, uniforms, tools and educational expenses.

Salaries and wages you received are trade or business income.

Gain or loss on sale or other disposition of real or depreciable property used in your trade or business is considered business income.

Loss on the sale of accounts receivable, if such accounts arose under the accrual method of accounting in your business, is included as a business deduction.

Casualty losses and theft losses are considered attributable to your trade or business. This is true even if it involves nonbusiness property.

Your proportionate share of a partnership's income or loss is considered business income or loss.

Losses on stock in small business corporations which qualify as ordinary losses are business losses.

Shareholders of an electing small business corporation (S Corporation) see Internal Revenue Code section 1366, for tax treatment of pass-through items to shareholders.

Loss resulting from the sale or exchange of small business investment company stock which qualifies as an ordinary loss, is considered as a loss attributable to your trade or business.

The deduction allowed for payment made by a self-employed person to a retirement plan is treated as a nonbusiness deduction.

STATE OF HAWAII — DEPARTMENT OF TAXATION
**GENERAL INSTRUCTIONS FOR APPLICATIONS FOR TENTATIVE
REFUND FROM CARRYBACK OF NET OPERATING LOSS (NOL)**

FOR USE BY INDIVIDUALS, ESTATES, OR TRUSTS

(Section references are to the Internal Revenue Code unless otherwise specified)

Note: Hawaii did not adopt the 5-year net operating loss carryback provision of the Job Creation and Worker Assistance Act (Public Law No. 107-147).

Note: Section 235-111.5, Hawaii Revised Statutes, provides that a qualified high technology business may apply to the Hawaii Department of Taxation to sell its unused net operating loss carryover to another taxpayer (after December 31, 2000, and before January 1, 2004). The buyer shall claim the purchased net operating loss deduction in the year in which the sale is approved. If you purchased a qualifying net operating loss from a qualified high technology business, you may file this form to obtain a refund from the carryback of the net operating loss.

A. WHO MAY FILE AN APPLICATION.—An application for a tentative carryback adjustment may be filed on this form by any individual, estate, trust, or fiduciary who desires a quick refund of taxes which are affected by the carryback of a NOL.

Note: If you are a nonresident or part-year resident (Form N-15 filer), you cannot file Form N-109. You must file an amended return on Form N-15 to carry back your NOL. Use the version of Form N-15 for the year being amended, write the word "AMENDED" in the upper left hand corner of the return, and fill in the return with all the correct information. You may use Schedule A (Form N-109) to figure your NOL that is available for carryback or carryforward.

A taxpayer has an option on whether or not to carry a loss back first before carrying it forward. This form should only be used by those taxpayers choosing to carry their losses back.

You may elect to carry forward a NOL instead of first carrying it back by attaching a statement to this effect on a timely filed return (including any extensions) for the year of the loss. Once you make such an election, it is irrevocable for that year. The carryforward is limited to 20 years, whether or not a carryback is used first.

However, no part of any NOL incurred outside of the State prior to beginning business in the State may be included in such election.

Change in Filing Status. Special rules apply if you filed a joint return (or a separate return) for some but not all of the tax years involved in figuring an NOL carryback. For details, see federal Publication 536. Attach a computation showing how you figured the carryback.

B. TIME AND PLACE FOR FILING.—This form must be filed with the district office with which the individual, estate, or trust is required to file its income tax return, and must be filed on or after the date of filing of the return for the taxable year of the NOL and within 12 months from the end of such taxable year. Do not attach this form to your income tax return.

NOTE: If you fail to meet the foregoing limitation, you may file an amended return within three years of the due date prescribed for filing the return, including extensions, for the NOL year or the period agreed to under a written extension of time, whichever is later.

C. RECOMPUTATION OF TAX LIABILITY.—In determining the decrease attributable to the NOL carryback in the tax previously determined, such tax is to be recomputed. The use of Form N-11, N-12, or N-40 and instructions, for the applicable taxable year, will be helpful in making this recomputation.

The amount of the adjustment is limited to the decrease in such tax as previously determined which results from the NOL carryback and the effect of such carryback upon any item taken into account in computing the tax previously determined. Such decrease must be computed on the basis of the items reflected in the computation of the tax as previously determined. Accordingly, items must be taken into account only to the extent that they were reported in the return, or were reflected in amounts assessed (or collected without assessment) as deficiencies, or in amounts which were abated, credited, refunded, or otherwise repaid prior to the date of filing this application.

Deductions (except the charitable contributions deduction) which are limited, for example, by taxable income or adjusted gross income, are to be recomputed on the basis of the taxable income or adjusted gross income as affected by the carryback.

In general, the tax previously determined will be the tax shown on the return as filed, increased by any amounts assessed (or collected without assessment)

as deficiencies prior to the date of filing this application and decreased by any amounts abated, credited, refunded, or otherwise repaid prior to such date.

If any amount of the tax with respect to which a decrease is determined in connection with this application is unpaid (including any installment not yet due) at the date of filing the application, enter the unpaid amount of such tax in the appropriate column.

Note: As provided by statute, adjustment to refundable tax credits, except the credit for child and dependent care expenses, must be claimed on or before the end of the year following the year for which the credits are claimed.

D. ALLOWANCE OF ADJUSTMENT.—The Director of Taxation will act on this application within a period of 90 days from whichever of the following two dates is the later:

1. The date on which this application is filed; or
2. The last day of the month in which falls the last date prescribed by law (including any extension of time granted) for filing the return for the taxable year of the NOL from which the carryback results.

E. DISALLOWANCE OF APPLICATION.—Any application which contains material omissions or computation errors which the Director of Taxation deems cannot be corrected within the 90-day period may be disallowed. This application for a tentative carryback adjustment does not constitute a claim for credit or refund. If this application is disallowed in whole or in part, no suit based thereon may be maintained in any court for the recovery of the tax. The taxpayer may, however, file a regular claim for credit or refund on an amended return at any time before the expiration of the applicable period of limitation, as further explained in instruction G.

F. ASSESSMENT OF ERRONEOUS ALLOWANCES.—Any amount applied, credited, or refunded on the basis of this application which is later determined by the Director of Taxation to be excessive may be assessed as a deficiency as if it were due to a mathematical error appearing on the return.

G. FORM N-188X (or other Amended Return)—If you are a resident individual, you may obtain a refund by filing Form N-188X. An estate, trust, or fiduciary may file an amended return. Generally, Form N-188X (or amended return) must be filed within 3 years after the due date of the return for the tax year of the NOL.

If you use Form N-188X or an amended return, attach a computation of your NOL. You may use Schedule A (Form N-109). A separate Form N-188X or amended return must be completed for each year you request an adjustment.

H. YEARS TO WHICH YOU MAY CARRY A NOL.—Generally, you must first carry a NOL back to the second tax year before the loss. The portion of a NOL for a tax year that's an "eligible loss" may be carried back to the 3 preceding tax years. In the case of an individual, eligible losses are property losses arising from fire, storm, shipwreck, or other casualty, or from theft. In the case of a taxpayer that's a small business (a sole proprietorship whose average annual gross receipts are \$5 million or less for the tax year in which the loss arose), or engaged in the trade or business of farming, eligible losses are NOLs attributable to Presidentially declared disasters.

Any amount of the loss not used to offset taxable income (adjusted, as explained in instruction K) for the second preceding year is carried to the first preceding year. Where the loss is not entirely used to offset taxable income (adjusted) in the 2 preceding years, the balance may be carried forward to the 20 succeeding years (after NOL year) in the order of their occurrence. The balance of the loss (if any) which is not applied in the 2 carryback and 20 carryover years, cannot be carried to any later tax years.

For election with respect to the part of a NOL from a foreign expropriation loss, product liability loss, and other exceptions to the general rule, see section 172(b) and the federal regulations.

I. NOL DEDUCTION.—The sum of your NOL carrybacks and carryovers is your NOL deduction for the tax year to which carried. Before you can figure your NOL deduction for the year, you must first determine what part of any NOLs for any earlier or later tax years represents carryovers or carrybacks to the tax year under consideration. When you have more than one NOL to be carried to the same tax year, apply the loss from the earliest year first.

J. COMPUTATION WHEN THE NOL IS FULLY ABSORBED IN THE EARLIEST PRECEDING TAX YEAR.—In refiguring your tax liability for the year to which the NOL is carried and fully absorbed, the deduction for charitable contributions is determined without regard to any NOL carryback. Any other deductions claimed, based on or limited to a percentage of your adjusted gross income (such as medical expenses) must be refigured on the basis of your adjusted gross income, determined after application of the NOL carryback. Also, any credits based on or limited by the tax may be figured on the tax liability as determined after application of the NOL carryback.

K. COMPUTATION WHEN THE NOL IS NOT FULLY ABSORBED IN PRECEDING TAX YEAR(S).—The amount of a NOL which you may carry to the next year, after applying it to a prior year or years, is the excess, if any, of the NOL carryback over the taxable income of such prior year(s) figured with the following modifications:

- (1) Your deduction for capital losses must not be more than the capital gains included in gross income.
- (2) You are not permitted any deduction for the excess of a net long-term capital gain over a net short-term capital loss.
- (3) Your taxable income for the prior tax year(s) is determined without taking into account the NOL carryback from the loss year or any later tax year. NOLs, otherwise allowable as carrybacks or carryovers, occurring in tax years before such loss year, are taken into account in figuring the taxable income for the prior tax year.
- (4) You may not claim any personal exemptions.
- (5) Any deductions claimed, except charitable contributions, which are based on or limited to a percentage of adjusted gross income (such as medical expenses) must be refigured on the basis of the adjusted gross income after application of adjustments (1), (2), and (3) above. The deduction for charitable contributions is determined using the same adjustments except that you do not take into account any NOLs being carried back.

The taxable income as modified is to be considered not less than zero.

L. ATTACHMENTS.—Attach copies of your original 2003 federal Form 1040, and federal Schedules A, B, and D to Form N-109. If the copies are not attached the processing of your return and refund may be delayed.

If you purchased a qualifying net operating loss from a qualified high technology business, attach a statement with the following information: 1) Name(s) and identification number(s) of the qualified high technology business(es) from whom the net operating loss(es) was/were purchased, and 2) Amount of the net operating loss purchased from each qualified high technology business.

Line-By-Line Instructions For Form N-109

Enter in columns (a), (c), and (e) your tax for the applicable carryback year as shown on your original or amended return. If the return was examined, enter the amounts that were determined as a result of the examination.

Note: Only the portion of a NOL for a tax year that's an "eligible loss" with respect to the taxpayer may be carried back to the 3 preceding tax years.

Line 9. Deductions. — Individuals — Enter the amount of your itemized deductions or the standard deduction amount if you did not itemize your deductions.

Line 11. Exemptions. — Individuals — Enter \$1,040 times the number of exemptions claimed.

Those qualifying for the disability exemption use the appropriate amounts instead of the above.

Line 13. Income Tax. — Refigure your tax after the carryback to determine the tax decrease. Include in the tax before carryback, amounts shown on your original or amended return, and later adjusted, based on an examination of your return.

Attach a detailed computation of the new tax liability shown on line 13, columns (b), (d), and (f). The tax form and instructions for the applicable year will be helpful in making this computation. Include in the amount on line 13 any tax from Form N-2, Form N-103, Form N-152, Form N-312, Form N-318, Form N-405, Form N-586, or Form N-814.

Line 14. Nonrefundable credits. —The nonrefundable credits are the credit for income tax paid to another state or to a foreign country; the energy conservation tax credit; the enterprise zone tax credit; the low-income housing tax credit; the credit for employment of vocational rehabilitation referrals; the high technology business investment tax credit; the individual development account contribution tax credit; the technology infrastructure renovation tax credit; the credit for school repair and maintenance; the hotel construction and remodeling tax credit; and the residential construction and remodeling tax credit.

Line 16. Refundable credits. —The refundable tax credits include the low-income refundable tax credit; the credit for low-income household renters; the credit for child and dependent care expenses; the credit for child passenger restraint systems; the capital goods excise tax credit; the fuel tax credit for commercial fishers; the hotel construction and remodeling tax credit; the motion picture and film production income tax credit; the tax credit for research activities; the drought mitigating water storage facility income tax credit; the ethanol investment tax credit; the credit for taxes withheld on the sale of Hawaii real property interests by a partnership, estate, trust, or S corporation; and the shareholder's credit for taxes on capital gains paid to the State by a regulated investment company.